

Wisconsin Bar Association Convention

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"It is far more baneful in its consequences for the sovereign power, residing in the people to perform acts of injustice or tyranny or usurpation, than for kings, emperors, czars, and rulers of whatever name, to exercise despotic power.

"The true function of legislators is to declare and enforce only our national rights and duties and take none of them from us.

"That government is best which governs least.

"Our institutions are the result of the age-long struggle against the tyranny of sovereigns and the sovereignty of tyrants.

"Man, when least governed is greatest, and while all the agencies of government should exercise their proper function, after all, what men want, what they hunger for, what they will one day have the courage to demand and take, is less organic government—not more; a freer manhood and fewer shackles; a more cordial liberty; a lighter fetter of form and a more spontaneous virtue.

"The most fruitful sources of social disruption, political corruption and governmental break-down is disregard of, and indifference to these principles."

As illustrative of the legislative policy that we should pursue in our laws, it is well to return to first principles, as enunciated by that great student of legal theory, Professor James C. Carter, as found in his book, *Lectures on Law: Its Origin, Growth and Function*:

A complete study of the law would embrace three successive efforts.

The third and final effort would be to explore the realms of science which lie beyond the immediate boundaries of the law, and ascertain its origin, its essential nature, the method of its development, the function it fills in human society, and the place it occupies in the general system of human knowledge; in other words, to learn what is termed the Philosophy of Law.

If proof be needed of the immediate practical utility of such knowledge it may be found in abundance in the present condition of legislation. I speak of this country, but without meaning to imply that it is worse here than elsewhere. There are a vast number of laws on the statute-books of the several states which are never enforced, and generally for the reason that they are unacceptable to the people. There are great numbers of others, the enforcement of which, or attempts to enforce which, are productive of bribery, perjury, subornation of perjury, animosity and hate among citizens, useless expenditure, and many other public evils. All these are fruits of the common notion, to correct which, but little effort is anywhere made, that a legislative enactment is necessarily a *law*, and will certainly bring about, or help to bring about, the good intended by it, whereas, such an enactment, when never enforced, does not deserve the name of law at all, and when the attempted enforcement of it is productive of the mischiefs above mentioned, it is not so much law as it is tyranny. Among the evils which oppress society, there are few greater than that caused by legislative expedients undertaken in ignorance of what the true nature and function of law are.

H. WILLIAM IHRIG

WISCONSIN BAR ASSOCIATION CONVENTION

The thirty-fourth meeting of the State Bar Association of Wisconsin, held in the forty-ninth year of its organization, took place at Green

Bay, Wisconsin, June 22-24. It was probably the most enthusiastic and best attended meeting in the history of the association. Every detail of the local arrangements was worked out to a nicety by the local committee. Mr. Eben R. Minahan took charge of the local arrangements and to him and to the local committee that worked with him should go great credit for the splendid manner in which such arrangements were planned and carried out.

The reports of the officers and committees showed an increase of membership to between 1,400 and 1,500, or approximately 75 per cent of the entire bar of the state.

President Rosenberry, in his annual address, emphasized the importance of maintaining ethical standards of the bar and of organization in order to accomplish its purposes. "We must build up a feeling of professional solidarity, a unit of interests," he said. "We need not sacrifice our individuality as lawyers in order to unite our common interests in an aggressive and effective organization." As one of the means of accomplishing this he suggested publication of an association bulletin or journal. He also urged the participation of the bar as a whole in public affairs and suggested that the association should pledge support to an amendment to the State Constitution increasing pay of legislators to a reasonable sum and to continue that support until the amendment is accomplished. He also recommended that the association tender the services of a committee to co-operate with a citizens' committee that is making a study of the laws relating to the care of defective, delinquent and abandoned children. Judge Rosenberry believes that the lawyer who adopts up-to-date office methods cannot for that reason be charged with commercialism; that the age is one of transition from an agricultural to a commercial nation, and that the lawyer must meet this situation.

He made the further important suggestion to the effect that the difficulty of determining moral qualification of a candidate for the bar at the beginning of his career might possibly be solved by permitting such candidate to practice for a five-year probational period and that an absolute license to practice be not granted until the end of that term and then not at all unless he has conducted himself worthily in the practice of his profession.

The president's address was followed by a paper by Mr. William G. Rice, of the University of Wisconsin, upon the "Origin, Limitations and Extent of the Pardoning Power." Mr. Rice's paper indicated that he had given thorough study to this subject, particularly with reference to the recent history of the pardoning policy in Wisconsin.

Mr. Gilbert H. Montague, of New York, addressed the association on Wednesday evening upon the subject of "Price Fixing, Lawful and

Unlawful." He traced the decisions of the United States Supreme Court from the beginning down to the present time upon this subject, particularly with reference to its interpretation of the Sherman Anti-Trust law and the policies followed by the Federal Trade Commission. He concluded that the consequence of the recent Supreme Court decisions is that price fixing agreements and combinations are outlawed even though the prices fixed by them may be reasonable. If the jury, court or Federal Trade Commission finds any evidence tending to show that such price fixing is the result of an agreement or combination, this conclusion cannot and will not be overthrown by the Supreme Court. The paper was discussed by Mr. Harry L. Butler, of Madison, who drew several comparisons with reference to the Wisconsin Department of Markets, which he declared frequently had exceeded the boundaries set by the Federal Trade Commission in price fixing. The discussion was further ably continued with Mr. Louis Quarles, of Milwaukee.

Thursday morning was given over to two roundtable discussions, one presided over by Circuit Judge A. H. Reid, of Wausau. The subjects of the discussion were: (1) Whether the constitutional protection of accused persons from compulsory self-incrimination on witness stand should be repealed; (2) whether it should be changed so as to permit persons accused of crime to be subjected to adverse examination, and penalties provided for the administration of third degree methods. Another cognate question was whether a presiding judge at a jury trial should be permitted to comment upon the weight and credibility of evidence, and whether failure of accused to testify in criminal trials should be commented upon by court and counsel. Messrs. Frank H. Hoyt and Francis E. McGovern, of Milwaukee, and Judges R. S. Cowie, of La Crosse, and Edgar V. Werner, of Shawano, led the discussions upon the foregoing subjects.

The other roundtable discussion, presided over by Louis A. Lecher, of Milwaukee, took up the subjects of whether Wisconsin laws unfairly discriminate against Wisconsin corporations, with reference (a) to general incorporation; (b) as to taxation. The affirmative of these subjects was maintained by A. L. Nash, of Manitowoc, while Honorable Charles D. Rosa, a member of the Wisconsin Tax Commission, Madison, ably defended the Wisconsin laws upon this subject.

Both of these roundtable discussions were well attended and created much interest.

At the noon luncheon at Hotel Northland on Thursday, Moses Hooper, ninety-three-year-old nestor of the Wisconsin bar, reviewed in an interesting manner the secession proclivities of the Wisconsin legislature just before the Civil War and the creditable influence against such tendency exercised by Timothy O. Howe, who sacrificed his op-

portunity to be elected governor of the state because he would not accede to popular opinion with regard to state's rights. Mr. Hooper was followed by W. L. Evans, of the Green Bay bar, who gave an exceedingly interesting, and at many points humorous, review of incidents of the early bench and bar of Wisconsin, with particular reference to the Green Bay locality where the first Wisconsin court was held, this vicinity being peculiarly rich in territorial legal history.

The principal address of the afternoon was that of Henry M. Bates, dean of the University of Michigan Law School, whose subject was "Legislation and the Courts." This subject was treated by Dean Bates in an interesting and scholarly manner.

Other subjects taken up at this meeting were: "Extra-territorial Taxation from the Standpoint of Both Taxpayer and the State," by E. J. Dempsey, of Oshkosh, and F. E. Bump, of Madison; also the "Present Status of the Ruling Making Power in Wisconsin," which was ably treated by William E. Fisher, of Stevens Point, this being followed by interesting discussions by Frank T. Boesel, of Milwaukee, and Walter C. Owen, of Madison.

Reports of the committees occupied the remainder of the afternoon and the next forenoon.

It was announced that Madison had been chosen as the place for holding the 1928 annual meeting, for which a special program will be prepared to fittingly celebrate the fiftieth anniversary of the organization of the association, which is one of the oldest in the United States.

On Thursday evening there was tendered at the Hotel Beaumont a splendid banquet, which was presided over by A. McComb, president of the Brown County Bar Association. Professor W. C. Hewitt, of Oshkosh, was the speaker of the evening, his subject being, "Humor of the Bench and Bar."

Friday afternoon was given over to recreation.

The following officers were elected for the ensuing year:

Frank T. Boesel, Caswell Block, Milwaukee, President.

Gilson G. Glasier, Madison, Secretary and Treasurer.

Fulton Thompson, Racine, Vice-President First Circuit.

Wm. A. Kalmheimer, Milwaukee, Vice-President Second Circuit.

H. A. Gruenewald, Oshkosh, Vice-President Third Circuit.

A. L. Nash, Manitowoc, Vice-President Fourth Circuit.

R. M. Orchard, Lancaster, Vice-President Fifth Circuit.

C. W. Graves, Viroqua, Vice-President Sixth Circuit.

J. R. Pfiffner, Stevens Point, Vice-President Seventh Circuit.

N. O. Varnum, Hudson, Vice-President Eighth Circuit.

E. E. Brossard, Madison, Vice-President Ninth Circuit.

John H. Morgan, Appleton, Vice-President Tenth Circuit.

John Sprowls, Superior, Vice-President Eleventh Circuit.
George G. Geffs, Janesville, Vice-President Twelfth Circuit.
Henry Lockney, Waukesha, Vice-President Thirteenth Circuit.
E. R. Minahan, Green Bay, Vice-President Fourteenth Circuit.
John J. Fisher, Bayfield, Vice-President Fifteenth Circuit.
F. J. Smith, Merrill, Vice-President, Sixteenth Circuit.
Eli S. Jedney, Black River Falls, Vice-President Seventeenth Circuit.
Harlan B. Rogers, Portage, Vice-President Eighteenth Circuit.
Bailey E. Ramsdell, Eau Claire, Vice-President Nineteenth Circuit.
Allan V. Classon, Oconto, Vice-President Twentieth Circuit.
F. R. Bentley, Madison, Chairman of Judicial Committee.
H. S. Richards, Chairman of Qualifications for the Bar Committee.

Except as above stated, the officers of the association remain the same as last year.

RESOLUTIONS ADOPTED AT GREEN BAY MEETING

Among the important resolutions adopted by the association at the Green Bay meeting are the following:

1. Pledging active support for the adoption of a constitutional amendment providing adequate compensation for members of the legislature.

2. That a committee be appointed to consider what legislation is necessary to create a rule-making body.

3. Providing for a committee to collate and preserve early history of the courts and bar of Wisconsin.

4. Expressing interest and desire to co-operate in the work of the American Law Institute, and authorizing the Executive Committee to appoint such committees as may be necessary to promote this purpose.

5. To the effect that any attorney who solicits personal injury cases directly or indirectly should be disbarred, and authorizing the Judicial Committee to make such resolution effective. Some who voted against the resolution believed that the committee already possesses such power and that the resolution was, therefore, not necessary.

AMERICAN BAR ASSOCIATION MEETING AT BUFFALO

The State Bar Association was well represented at the annual meeting of the American Bar Association at Buffalo the week of August 30-September 3. Thirty-two members of the State Bar Association were present at the meeting held for the purpose of electing a vice-president for Wisconsin and a member of the General Council. Louis A. Lecher, of Milwaukee, was re-elected a member of the General Council and Edgar L. Wood was elected vice-president. The official delegates of the State Bar Association were Carl B. Rix, Milwaukee; H. S. Richards,

Madison; Vilas H. Whaley, Racine; George Ballhorn, Milwaukee; John B. Sanborn, Madison; A. R. Janecky, Racine.

The outstanding event of the meeting was the masterly address of Lord Chief Justice Hewart, of England, and the delightful introduction of the speaker by Chief Justice Taft.

It is estimated that upwards of three thousand members attended the meeting.